

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA**

PERRY MCCROBEY,)	
)	
<i>Petitioner,</i>)	
)	
v.)	No. 1:09-CR-117-TRM-CHS-1
)	1:16-CV-267-TRM
UNITED STATES OF AMERICA,)	
)	
<i>Respondent.</i>)	

MEMORANDUM OPINION

Federal prisoner Perry McCrobey (“Petitioner”) filed for post-conviction relief pursuant to 28 U.S.C. § 2255 on October 6, 2011 [Doc. 38; E.D. Tenn. Case No. 1:11-cv-300-CLC].¹ The Court denied that motion on March 27, 2015 [Docs. 63, 64]. On June 27, 2016, Petitioner, through counsel, filed a second expedited motion attacking the same criminal conviction—this time relying on *Johnson v. United States*, 135 S. Ct. 2551 (2015) [Doc. 67]. Review leads the Court to conclude counsel intended the filing to reach the Sixth Circuit as a successive petition.

Under the “Antiterrorism and Effective Death Penalty Act of 1996,” Petitioner cannot file a second or successive § 2255 petition in the District Court until he has moved in the United States Court of Appeals for the Sixth Circuit for an order authorizing the District Court to consider the motion. 28 U.S.C. § 2255(h). No such order has been received by this Court. Accordingly, the Clerk will be **DIRECTED** to **TRANSFER** the filing [Doc. 67] to the United States Court of Appeals for the Sixth Circuit pursuant to 28 U.S.C. § 1631.

ORDER ACCORDINGLY.

/s/ Travis R. McDonough
TRAVIS R. MCDONOUGH
UNITED STATES DISTRICT JUDGE

¹ Each document will be identified by the Court File Number assigned to it in the underlying criminal case: E.D. Tenn. Case No. 1:09-cr-117-TRM-CHS-1.